

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,  
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,  
ASCOT FUND LTD., GABRIEL CAPITAL  
CORPORATION,

Defendants.

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 09-01182 (SMB)

**STIPULATION**

WHEREAS, on May 7, 2009, Plaintiff Irving H. Picard, Trustee for the liquidation of Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff (the “Trustee”) commenced this adversary proceeding against defendants J. Ezra Merkin, Gabriel Capital, L.P., Ariel Fund Ltd., Gabriel Capital Corporation, and Ascot Partners, L.P. (“Ascot Partners”); and

WHEREAS, on June 15, 2009, the Trustee moved for a temporary restraining order and injunction pursuant to Bankruptcy Rule 7065 and Rule 65 of the Federal Rules of Civil Procedure to preserve Ascot Partners’ known remaining assets; and

WHEREAS, on June 19, 2009, the Court entered a Stipulation and Order (the “Initial Injunction”) issuing an injunction on consent of the parties and releasing \$350,000 from the

funds held in defendant Ascot Partners' account at Morgan Stanley & Co., Inc. ("Morgan Stanley account") to the duly appointed receiver for Ascot Partners (the "Receiver"); and

WHEREAS, a hearing on the Trustee's Application for a Preliminary Injunction was held on July 28, 2009, pursuant to which the Court entered a Stipulation and Order Continuing Injunction (the "Continuing Injunction Order") on consent of Ascot Partners and the Trustee on substantially the same terms as the Initial Injunction (ECF No. 61);

WHEREAS, the Trustee and Ascot Partners agreed to a settlement of the Trustee's adversary proceeding by agreement dated June 12, 2018 ("Settlement Agreement");

WHEREAS, on July 3, 2018, the Court entered an order approving the settlement agreement ("Settlement Order");

WHEREAS, the period for appealing the Settlement Order has passed;

WHEREAS, all conditions, obligations, and releases set forth in the Settlement Agreement have been effectuated; and

WHEREAS the continuing injunction on Ascot Partners' Morgan Stanley account is no longer necessary.

**NOW, THEREFORE**, it is stipulated and agreed by and between the Trustee and Ascot Partners:

1. The Continuing Injunction Order entered by the late Honorable Burton R. Lifland on February 4, 2010 is hereby vacated; and
2. Each party is to bear its own costs and attorneys' fees associated with vacating the Continuing Injunction Order.

Dated: New York, New York  
October 23, 2018

**BAKER & HOSTETLER LLP**

By: /s/ Lan Hoang

David J. Sheehan  
45 Rockefeller Plaza  
New York, NY 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
Email:  
David J. Sheehan  
dsheehan@bakerlaw.com  
Lan Hoang  
lhoang@bakerlaw.com  
Brian W. Song  
bsong@bakerlaw.com

*Attorneys for Irving H. Picard,  
Trustee for the Substantively  
Consolidated SIPA Liquidation of the  
estate of Bernard L. Madoff Investment  
Securities LLC and the Chapter 7  
Estate of Bernard L. Madoff*

**NORTON ROSE FULBRIGHT US LLP**

By: /s/ Judith A. Archer

Judith A. Archer  
1301 Avenue of the Americas  
New York, New York 10019-6022  
Telephone: (212) 521-5400  
Facsimile: (212) 521-5450  
Email:  
Judith A. Archer  
judith.archer@nortonrosefulbright.com  
David B. Schwartz  
david.schwartz@nortonrosefulbright.com

*Attorneys for Ralph C. Dawson, as  
Receiver for Ascot Partners, L.P., and  
Ascot Fund Ltd.*